

AMENDED IN SENATE MAY 2, 2006  
AMENDED IN SENATE APRIL 19, 2006

**SENATE BILL**

**No. 1435**

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**Introduced by Senator Ortiz**

February 22, 2006

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An act to add Section 12315 to the Welfare and Institutions Code, relating to in-home supportive services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1435, as amended, Ortiz. IHSS pilot project: eligibility: purchase of service.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient or by or through contract by the county, qualified, aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

This bill would require the department to establish a 4-year pilot project, that would authorize certain individuals who are not financially eligible to receive in-home supportive services, to purchase those services. The bill would require the pilot project to be conducted in 3 counties that consent to participate, and would require the department to develop eligibility guidelines for individuals who purchase services under the pilot project, in conjunction with designated entities and stakeholders. This bill would also permit a participating county to contract with a qualified private agency home care provider, as specified, if the provider meets specified requirements.

This bill would require a participating county to evaluate the pilot project in accordance with criteria set forth in the bill. The bill would require the department to ensure that the pilot project is conducted so as to secure maximum federal financial participation, *including, if necessary, applying for a federal waiver.*

This bill would provide that participating counties shall not be responsible for a share of cost for the administration of, or services provided under, the bill. The bill would prohibit a person providing in-home supportive services pursuant to the bill from being paid more in wages and benefits than if the person were providing those services to an individual under the In-Home Supportive Services program, and would prohibit the eligibility assessment of an applicant under the In-Home Supportive Services program from being delayed by the eligibility assessment of a person desiring services under the bill. It would further provide that it shall only be implemented if sufficient funds are appropriated in the annual Budget Act.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited as the  
2 California In-Home Supportive Services Public-Private  
3 Partnership Pilot Project Act.

4 SEC. 2. The Legislature finds and declares all of the  
5 following:

6 (a) California has a rapidly aging population.

7 (b) According to the Legislative Analyst's Office, between  
8 2004 and 2010, the number of Californians 65 years of age and  
9 older will increase by 2.4 percent per year, which will result in an  
10 increase of more than 604,000 Californians in this age group in  
11 just six years.

12 (c) The Department of Finance projects that Californians over  
13 65 years of age, which was 3,627,284 in 2000, will have grown  
14 to number at least 4,526,578 by 2010.

15 (d) This explosion in our aging population will devastate  
16 California's health care delivery system unless action is taken to  
17 improve our ability to provide low-cost personal care services as  
18 an alternative to acute care and nursing home stays.

(e) Unique public-private partnerships should be created to use economies of scale to effectively and efficiently deliver services to this population.

(f) California has developed an in-home supportive services (IHSS) delivery system that is, by virtue of its ubiquity and cost-effectiveness, uniquely qualified to help deal with this growing aging population.

(g) Allowing the IHSS delivery system, which has been created with public funds, to reduce nursing home costs and to keep persons safely at home, to begin to deliver at-cost services to Californians who do not qualify for Medi-Cal, is an appropriate reward for taxpayers who have paid to create this infrastructure.

~~(h) Any use of this system for private-pay patients shall require that neither the state nor the counties spend taxpayer dollars to assess, provide services to, bill, or collect payment from these private-pay patients.~~

~~(i) Any use of this system to create or employ a payroll system for the providers of these services shall also be borne by the private-pay patients.~~

~~(j) Any public-private partnership undertaken under this section shall comply with governing Medicare and Medicaid rules and regulations.~~

SEC. 3. Section 12315 is added to the Welfare and Institutions Code, to read:

12315. (a) (1) The department shall conduct a pilot project for the purpose of authorizing the individuals described in subdivision (b) to purchase, at their own expense, in-home supportive services (IHSS) pursuant to this chapter. The pilot project shall continue for four years, and by the end of the third year, each participating county shall evaluate the success of the pilot project, based on the criteria set forth in subdivision (c). The pilot project shall be conducted in three counties that consent to participate.

(2) The department shall invite up to three counties to participate in the pilot project, one of which may have a population of fewer than 200,000, one of which may have a population between 200,000 and 700,000, and one of which may have a population greater than 700,000.

(3) The department shall require each county that desires to participate in the pilot project to demonstrate that it has a surplus of available workers on, or applying to be on, its registry to ensure that services that would otherwise be provided to persons who meet current IHSS eligibility requirements are not, instead, being provided to pilot project participants.

(4) In order to ensure that persons meeting current IHSS eligibility requirements continue to receive services, the public authority in a county that participates in the pilot project may contract with a private agency home care provider to provide any portion of the pilot project services, if the private agency home care provider does all of the following:

(A) Pays its workers wages and benefits no less than those in the public authority's collective bargaining agreement.

(B) Employs either the consumer's preferred worker or workers from a registry of qualified workers maintained by the public authority.

(C) Maintains a list of its workers with the public authority.

(5) The department, in conjunction with the California Association of Counties, the County Welfare Directors Association of California, the California Association of Public Authorities and other stakeholders, shall develop eligibility guidelines for individuals wishing to purchase in-home supportive services under the pilot project, *and shall make recommendations regarding any operational issues not otherwise addressed in this section.*

(b) The pilot project established pursuant to this section shall apply to an individual, qualified by assessment to receive IHSS services, but who is not otherwise eligible to receive services pursuant to this chapter or pursuant to the Medi-Cal program, ~~because of~~ *because of* either of the following:

(1) His or her income level is *less than 300 percent of the federal poverty level, but is too high to receive those services with a share of cost of less than 100 percent.*

(2) He or she has an income of 300 percent or less of the federal poverty level but fails the Medi-Cal asset eligibility test.

(c) The success of the pilot project shall be based on the following factors:

(1) Consumer satisfaction.

(2) Cost-effectiveness.

1 (3) Average turnover of providers.

2 (4) The ability to continue to provide services to persons who  
3 meet current IHSS eligibility requirements.

4 (5) The effect of the pilot project on non-IHSS vendors,  
5 workers, and referral agencies.

6 (d) In evaluating the project, the county shall ensure all of the  
7 following:

8 (1) An independent, impartial, outside evaluator or a county  
9 employee independent of the project shall be used.

10 (2) If the county decides to employ an outside evaluator, the  
11 county shall be responsible for all costs associated with the  
12 evaluation.

13 (3) The department shall approve the evaluation design and  
14 plan.

15 (4) Quarterly progress reports shall be completed during the  
16 evaluation year.

17 (e) The department shall take all necessary steps to ensure that  
18 the pilot project is conducted so as to secure maximum federal  
19 financial participation, *including, if necessary, applying for a*  
20 *federal waiver.*

21 (f) The department shall furnish the results of the evaluation of  
22 each pilot project to the relevant policy and budget committees of  
23 the Legislature.

24 (g) Using existing assessment methods, a participating county  
25 shall assess individuals who wish to purchase in-home supportive  
26 services under the pilot project, in order to ensure program  
27 integrity and continuity.

28 (h) Individuals who receive services under the pilot project  
29 shall receive those services, and only those services, for which  
30 they are assessed.

31 (i) A participating county shall not be responsible for any  
32 share of cost for the administration of the pilot project, or for the  
33 services provided under the pilot project.

34 (j) A payroll or billing system created or purchased for the  
35 purpose of implementing this section shall not be paid for with  
36 public funds.

37 (k) An individual qualified to receive services under this  
38 section shall have the right to hire and fire his or her individual  
39 provider.

1 (l) A participating county shall ensure that a worker providing  
2 in-home supportive services to a person described in subdivision  
3 (b) shall be paid no more in wages and benefits than the worker  
4 would receive if he or she were providing the same services to an  
5 individual who is eligible to receive in-home supportive services  
6 under this chapter.

7 (m) A participating county shall ensure that no person who  
8 applies to receive in-home supportive services under this chapter  
9 shall have his or her assessment of eligibility for those services  
10 delayed by the assessment of eligibility for services of a person  
11 described in subdivision (b).

12 (n) *Any use of this system for private-pay patients shall*  
13 *require that neither the state nor the counties spend taxpayer*  
14 *dollars to assess, provide services to, bill, or collect payment*  
15 *from these private-pay patients.*

16 (o) *Any use of this system to create or employ a payroll system*  
17 *for the providers of these services shall also be borne by the*  
18 *private-pay patients.*

19 (p) *Any public-private partnership undertaken under this*  
20 *section shall comply with governing Medicare and Medicaid*  
21 *rules and regulations.*

22 ~~(n)~~

23 (q) This section shall only be implemented if sufficient funds,  
24 as determined by the department, are appropriated in the annual  
25 Budget Act. All costs incurred by a participating county in the  
26 implementation of this section shall be funded by that  
27 appropriation.